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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/386,796	
	Filing Date	October 16, 2003	
	First Named Inventor	Tom Mooty et al.	
	Art Unit	1745	
	Examiner Name	J. Maples	
Total Number of Pages in This Submission	3	Attorney Docket Number	JK-01410

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ENCLOSURES (check all that apply)		
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Firm	Black & Decker Inc.		
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Printed Name	Adan Ayala, Esq.		
Date	November 12, 2007	Reg. No.	38,373

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Typed or printed name	Adan Ayala, Esq.	Date	November 12, 2007

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Serial No. 10/686,796

Election

UTILITY PATENT

B&D No. JK01410

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Tom MOODY et al.

Serial No.: 10/686,796

Examiner: J. Maples

Filed: October 16, 2003

Group Art Unit: 1745

For: **CORDLESS POWER TOOL BATTERY
RELEASE MECHANISM**Assistant Commissioner for Patents
Washington, DC 20231**ELECTION**

I, Adan Ayala, PTO Reg. No. 38,373, hereby certify that this
correspondence is being facsimile transmitted to the Patent and
Trademark Office Fax No. (571) 273-8300 on 11-12-07


Adan Ayala

Dear Sir:

This is in response to the Office Action of October 17, 2007.

The Examiner has requested the election between two inventions: Group I (Claims 20-26 and 34); and Group II (Claims 27-33 and 35-39). In response, Applicants hereby elect Group II with traverse.

The Examiner argues that Groups I and II are distinct because "the inventions do not overlap in scope." However this is incorrect, as Claim 34 of Group I is dependent on Claim 33 of Group II. In other words, Claim 34 has elements of both Groups I and II. That constitutes an overlap in scope. Accordingly, the restriction requirement should be withdrawn.

Serial No. 10/686,796

Election

UTILITY PATENT

B&D No. JK01410

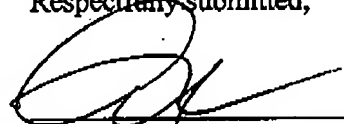
Furthermore, under the MPEP, "[w]here the claims of an application define the same essential characteristics of a *single* disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition." MPEP § 806.03. All pending claims relate to one single embodiment. Accordingly, a "restriction ... should never be required." *Id*

Nonetheless, the Examiner advised that a reply to this requirement must include an identification of the invention. Pursuant to such requirement, Applicants elect with traverse Group I, which includes Claims 20-26 and 34.

The claims are patentable and the application is believed to be in condition for formal allowance. Allowance of the pending claims is respectfully requested.

No fee is believed due. Nonetheless, the Commissioner is authorized to charge payment of any fees due in processing this response, or credit any overpayment to Deposit Account No. 02-2548.

Respectfully submitted,



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